

Claims 1-7 and 13 stand rejected as obvious over Freitag et al. U.S. 4,281,884 in view of Kaufmann et al. U.S. 5,791,445.

Freitag et al. discloses the elements of applicants' claim 1 but for the italicized language. Rather, the heat shrink sleeve 10 of Freitag et al. only extends up to end face but does not extend into the gap or enclose the end face. As such, the sleeve 10 does not achieve the object of applicants' invention, which is to prevent moisture from penetrating under the end wall and causing corrosion. The insulating shield 36 surrounding the piston rod is not connected to the sleeve 10, and does nothing to prevent this problem.

Kaufmann et al. discloses a heat-shrink sleeve 22 surrounding a cylinder 12 and having a cylindrical segment 24 which extends axially over piston rod 14.

The examiner states that Kaufmann et al. provides the general teaching for the sleeve to extend into a gap and enclose the end face. Applicants respectfully disagree. Kaufmann et al. discloses no such gap, and certainly does not suggest the sleeve extending axially into such a gap. Even if the shield 36 and sleeve 10 of Freitag et al. were made as a single piece, there is no suggestion that such a sleeve would extend axially into the gap disclosed by Freitag et al. As much as the combined teaching appears to suggest, is that the sleeve would extend over the gap and axially away from it. As such, the shield 36 would be exposed to wear which would still permit intrusion of moisture into the unprotected slit between the cylinder 1 and sealing unit 4. Applicants' claim clearly defines the gap as lying between the end face and the piston rod, and the sleeve extending axially into the gap.

Since the combination propounded by the examiner does not fairly suggest an important element of applicants' invention as claimed, the examiner has not established a *prima facie* case of obviousness. See MPEP 2143.03.

If an independent claim is non-obvious under 35 U.S.C. §103, then any claim depending from is non-obvious. In re Fine, 5USPQ2d 1596 (Fed. Cir. 1988). Thus, claims 2-7 are not *prima facie* obvious.

With respect to claim 5, the examiner states that the end ring 4 of Freitag et al. has an "annular channel" through which the piston rod extends. However no such annular channel is disclosed. Freitag et al. simply discloses a bore through which the piston rod passes. A bore does not constitute an annular channel, which is a channel having an inner boundary (the rod) and an outer boundary which are concentric. To suggest that a mere bore could somehow constitute an annular channel would be to ignore the limitation of claim 5, since such a bore is inherent in claim 4. Claim limitations cannot be disregarded.

Thus, the annular channel recited in claim 5 represents a further limitation which is not suggested by the combination of Freitag et al. and Kaufmann et al., and an additional reason why a *prima facie* case of obviousness of claim 5 has not been established.

In view of the foregoing, it is believed that all pending claims are allowable, wherefore withdrawal of the rejection of claims 1-7 and 13 and early allowance are solicited. If any objections remain, a call to the undersigned is requested.

It is believed that no fees or charges are required at this time in connection with the present application; however, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,

COHEN, PONTANI, LIEBERMAN & PAVANE

By 

F. Brice Faller
Reg. No. 29,532
551 Fifth Avenue, Suite 1210
New York, New York 10176
(212) 687-2770

Dated: March 7, 2005